

Maine Forest Service Consultants Newsletter & Ice Storm Update #6 May 28, 1999



WORKERS' COMP NEWS

Many people have asked for information on how TSI and planting contractors can apply for a Predetermination of Independent Contractor status with the Workers' Compensation Board. The application used for timber harvesters for conclusive presumption is not applicable to TSI and planting contractors.

Janas Laster of the Workers' Compensation Board staff says that a landowner using the services of a contractor to complete TSI or other non-commercial activities on a woodlot may submit to the Board an application for Predetermination of Independent Contractor Status to Establish **Rebuttable** Presumption.

A Rebuttable Presumption makes it such that the contractor does not have to carry workers' compensation insurance on himself. However, if there is an injury, a mediator may still determine that the workers' compensation rules apply and that the landowner is liable.

A Rebuttable Presumption application should be submitted to the Workers' Compensation Board at least 2 weeks prior to start of work. If there is a written contract between the landowner and contractor, that must be included with the application. If there is a verbal agreement, the applicant (landowner) must supply a written summary of what that agreement is with the application. It is important that the application be filled out completely.

Remember, neither type of Predetermination of Independent Contractor Status is valid if there are employees. If you have any questions on either type of predetermination, call Janas Laster at Workers' Comp at (207) 287-7074.

MORE WORKERS' COMP...

On May 20, 1999, the Maine Legislature enacted LD 670, "An Act to Require That Workers' Compensation Coverage Be Equitably Applied to the Timber Industry". The original text of the bill, which required all persons engaged in harvesting wood products carry workers' compensation insurance for themselves, was eliminated. The new wording, in effect an amendment to the original bill, provides for an **Annual Predetermination of Independent Contractor Status** for persons who harvest forest products. The predetermination becomes invalid if the person obtained it by fraud or fraudulently

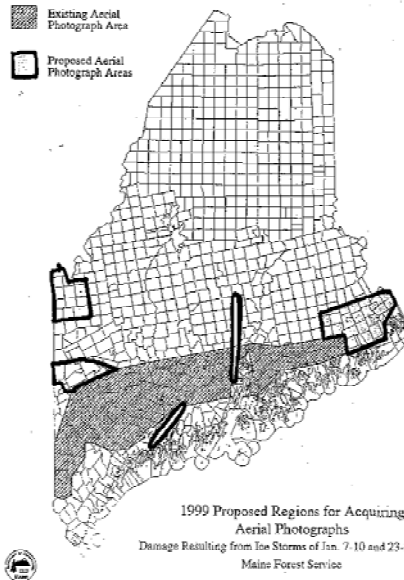
changes work practices so that the person would not qualify for independent contractor status. The invalidity of a predetermination does not alter the landowner's immunity from liability.

MORE AERIAL PHOTOGRAPHY BEING FLOWN OF ICE STORM DAMAGE

Because last year's ice damage photo interpretation project was so successful, the MFS acquired approximately 1,000,000 acres of additional leaf-off coverage during late April/early May 1999 (see map). J.W. Sewall Co. was the successful bidder for the contract; film type and scale are identical to last year's product.

This photography is still in the process of being developed but initial screenings of the first rolls indicate that the quality of the photography is at least as good as last year's.

As soon as the photo indexes for the 1999 photography are built they will be provided to the FSA offices to be incorporated into the existing ice photo index. Foresters, landowners, municipalities and the general public will be able to order prints of this new photography from Sewall Co. under the existing arrangement (and at the current rates).



1999 Proposed Regions for Acquiring
Aerial Photographs
Damage Resulting from Ice Storms of Jan. 7-10 and 23-24, 1998
Maine Forest Service

NEW FPA RULES APPROVED BY THE LEGISLATURE

The new FPA rules as proposed by the Maine Forest Service have passed the full legislature and are awaiting Governor King's signature. The major changes to the rules revolve around the new Forest Operations Notification and clearcutting. These changes were summarized in the February 9, 1999 consultant's newsletter.

The new FPA rules will go into effect October 1, 1999. For a copy of the new rules, contact the Maine Forest Service at (207) 287-1073 or 1-800-367-0223 (In-state only) or see them at the Maine Forest Service web site at:

www.state.me.us/doc/mfs/mfshome.htm

The Maine Forest Service will be offering training on the new rules for consultants and loggers over the next several months. Announcements will be made through mailings and the newspaper for sessions in your area.

If you have questions on FPA or the new rules, you may contact the Maine Forest Service FPA Regional Enforcement Coordinator for your area.

NORTH: Tom Whitworth, Ashland 435-7963
CENTRAL: Roger Ryder, Old Town 827-6191
SOUTH: Jim McMullen, Augusta 287-2275

TREE GROWTH TAX LAW EXTENSION

As you know by now, the Maine Legislature approved and Governor King signed an extension to the Maine Tree Growth Tax Law management plan requirement deadline. There have been some questions about when the \$100 additional penalty kicks in and when is the final deadline date. Following is a summary of the changes, from Larry Record of the Bureau of Revenue Services, Property Tax Division:

1. By December 31, 1999, a landowner must have either a sworn statement (the green form) that he has had a plan prepared or evidence that the landowner intends to develop a plan or a contract with a Maine Licensed Professional Forester to have the plan done by December 31, 2000.

2. If none of the above requirements are met, the landowner will then be assessed a \$100 penalty by the Town or the State Tax Assessor for the unorganized towns.

3. If a plan is not completed by December 31, 2000, then the property is automatically removed from the Tree Growth Tax program and the landowner will be assessed the usual penalty (based on fair market value of

the land) by the Town (or the State Tax Assessor for the unorganized towns).

ICE STORM UPDATE

The Pledge

Please remember that any type of plan (new, update, or woodlot assessment) **MUST** have a signed pledge as the last page of the plan. If the signed pledge is not included, then payment to the landowner will be delayed while we wait for all the paperwork to arrive at the district forester's office.

The Pledge wording is as follows:

"This plan reflects my objectives as the landowner. I accept and approve the recommendations made by the resource professional. I pledge that any management practices implemented on my land will be consistent with these recommendations and it is my intention to follow them wherever possible."

Ice Storm Assessment

Any plan done for land in the footprint of the ice storm, which is just about any place in Maine except northern and central Aroostook County, must have an ice storm assessment included as part of the plan. **Even if there isn't any ice storm damage!** In which case, the assessment is simple - "There was no damage". But be sure to include it.

Following is a list of what must be included in the plan when assessing ice damage:

- ❖ Designation on forest type map of areas damaged.
- ❖ Narrative description of damage, stand by stand.
- ❖ Prescription of treatment necessary, stand by stand, for mitigation of ice storm damage, including a timetable of practices.

SIP Practices

When writing the practice project outlines for landowners for SIP practices under the ice storm funding, remember that all practices must relate to ice storm damage assessment or mitigation. Pruning practices must be to do corrective pruning on damaged trees. Thinning or aesthetic quality improvement must be to remove trees damaged by the ice storm. New access corridors and recreation trails must be used to access areas needing cleanup.